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PTO/SB/21 (09-04)

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|   | Filing Date          | April 1, 2004          |              |
|   | First Named Inventor | Robert C. Otterson     |              |
|   | Art Unit             | 1748                   |              |
|   | Examiner Name        | Rita Ramesh Patel      |              |
| Total Number of Pages in This Submission  | 24                   | Attorney Docket Number | 1360-001/ddh |

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| Firm Name    | ipsolon llp        |          |       |
| Signature    |                    |          |       |
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| Date         | October 19, 2006   | Reg. No. | 35889 |

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**IN THE U.S. PATENT AND TRADEMARK OFFICE  
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**OCT 19 2006**

In re Application of: Robert Otterson

Filed: April 1, 2004

Application No.: 10/816,664

Examiner: Rita Ramesh Patel

Group Art Unit: 1746

For: *Flat Surface Washing Apparatus*

**REPLY BRIEF  
(37 CFR § 41.37)**

COMMISSIONER FOR PATENTS:

Sir:

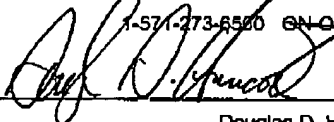
This reply brief is in filed in response to the Office Action mailed September 28, 2006 in which the Examiner, in response to Applicant's appeal brief, (a) withdraws the rejections of claims 1 – 15, and (b) makes a new ground of rejection.

The Applicant wishes to maintain this appeal pursuant to 37 C.F.R. § 41.39(b)(2).

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Attorney Ref. No: 1360-001/ddh

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**1. Real Party in Interest**

The real party in interest is Robert C. Otterson

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**2. Related Appeals and Interferences**

There are no related appeals or interferences.

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**3. Status of Claims**

Claims 1 through 15 are rejected and are the claims on appeal.

Claims 16 - 20 are withdrawn.

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**4. Status of Amendments**

No claim amendments have been filed subsequent to the final office action that was mailed June 19, 2006.

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The invention claimed herein is a high pressure washer device that is mounted on a wheeled chassis. The device is especially useful for washing flat surfaces such as tennis courts. An engine and high pressure pump are mounted onto the wheeled chassis. High pressure water flows to a rotating wand and nozzle assembly on the chassis so that as the chassis is moved along a linear path, high pressure water is sprayed onto the underlying surface.

Independent claim 1 is directed to an apparatus for cleaning a surface comprising a wheeled chassis (e.g., Fig. 1, reference numbers 12, 18; specification at pages 4, 5), an engine (e.g., Fig. 1, reference number 14; specification at page 5) and high pressure pump (e.g., Fig. 1, reference number 16; specification at page 5) mounted to the chassis. The pump has an inlet e.g., (Fig. 1, reference number 30; specification at page 5) and a high pressure outlet (e.g., Fig. 1, reference number 32; specification at page 5). A rotary valve (e.g., Fig. 3, reference number 50; specification at page 7) is mounted to the chassis and is fluidly connected to the high pressure outlet (e.g., Fig. 3 and specification at page 7). At least two wands (e.g., Figs. 2 and 3, reference numbers 58, 60; specification at pages 7, 8) are fluidly connected to the rotary valve so that rotation of the valve causes the wands to rotate (e.g., specification at page 9). Each wand has a nozzle (e.g., Fig. 2, reference numbers 62, 64; specification at pages 7, 8) mounted to the wand and oriented so that high pressure water is sprayed from the nozzles toward the surface (e.g., Fig 3; specification at page 9).

Independent claim 9 includes many of the elements just described, and also high pressure water distribution means (e.g., specification at pages 6 through 9) connected to the rotary valve for directing water sprayed from nozzles in a 360° rotary spray pattern (e.g., Fig. 5; specification at page 9). Claim 9 also calls out diffuser plate means (e.g., Figs. 2 and 3, reference numbers 70, 72; specification at page 8) for interrupting the rotary spray pattern in at least part of the 360° rotary spray pattern e.g., (Figs. 3 and 4; specification at pages 9, 10).

Dependent claim 2 specifies that the rotary valve is capable of causing the nozzles to rotate in a circular pattern so that water is sprayed from the nozzle in a



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path (e.g., specification at page 7). Dependent claim 3 requires that the path is circular (e.g., Fig. 5). Dependent claims 4 and 11 recite the diffuser plates (70, 72) mounted to the chassis between the nozzles and the surface such that the diffuser plates occlude at least a portion of the path (e.g., Figs. 3 and 4; specification at page 8, 9).

Dependent claim 12 recites that each diffuser plate of the diffuser plate means interrupts the rotary spray pattern through an arc of at least about 45° (specification at page 11). Claim 13 specifies that the chassis is configured for movement along a linear path and each diffuser plate interrupts the rotary spray pattern at opposite lateral sides of the rotary spray pattern (e.g., Fig. 4; specification at pages 9, 10).

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**6. Grounds of Rejection to be Reviewed on Appeal**

Claims 1 – 15 are rejected under 35 USC § 103(a) as being obvious in view of Poppitz (US Patent No. 6,012,645).

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**7. Argument****RECEIVED  
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The Examiner has objected to a typographical error in claim 14: the word "of" needs to be deleted. This typographical problem may be corrected by Examiner's amendment upon allowance of the claims.

**B. Claim Rejections**

The well-established test for a *prima facie* case of obviousness requires, among other things, that the prior art references teach or suggest all of the claim limitations. The MPEP, in section 2143, sets forth what is needed for establishing a *prima facie* case of obviousness for rejecting claims under 35 USC § 103. The pertinent portion of that section is reproduced here:

*"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."*

The reference cited by the Examiner fails to meet each of these criteria.

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I. The Poppitz Reference Does not Teach all Claim Limitations

a. Independent Claim 1

Independent claim 1 requires among other things, an engine and a high pressure pump mounted to the chassis. Poppitz's floor cleaning machine does not include either an engine or a pump mounted to the wheeled chassis. Indeed, while Poppitz mentions that a pump or other pressure source is the source of high pressure water (column 2, lines 36 through 38), the pump, which is somewhere at the upstream end of high pressure hose 25, is not shown and there is no mention whatsoever of an engine to pressurize the pump.

The Examiner completely ignores and does not mention that claim 1 requires an engine, and that the engine must be mounted to the wheeled chassis. As to the pump, the Examiner argues that it would have been obvious to attach the pump to the chassis since "it has been held that forming in one piece an article which formerly has been formed in two pieces and put together involves only routine skill in the art." (Citing *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).)

While the Examiner's statement quoted above is undoubtedly accurate as applied by the Court, it is not instructive or applicable in the context of the invention defined in claim 1 and certainly does not lend any strength to the argument that the claim is obvious. Poppitz fails to show a pump mounted to a chassis and therefore does nothing to teach one skilled in the art how the pump might be mounted. Since Poppitz fails to even disclose an engine mounted to the chassis for pressurizing the pump, it cannot be argued that a claim limitation calling for an engine mounted to the chassis would have been obvious.

The invention called out in claim 1 allows the chassis to be moved relatively easily because only a low pressure hose is attached to the wheeled chassis—the pump and engine are mounted on the chassis itself. A device such as Poppitz requires a high pressure hose to be attached to the wheeled chassis. A high pressure hose is quite stiff due to the pressure of fluid—water—flowing

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into and through the hose. When such a hose is attached to a wheeled chassis such as the one shown in Poppitz, the chassis becomes difficult to maneuver because the hose is so stiff. This increases the difficulty of operating the device.

On the other hand, by mounting the engine and high pressure pump on the wheeled chassis as called out in claim 1, the device may be connected to a low pressure fluid source. This significantly increases the ability of the chassis to be maneuvered over the surface that is being cleaned.

Poppitz does not describe or suggest a wheeled chassis that includes a pump mounted to the chassis and there is nothing in the Poppitz disclosure that would suggest that it would be desirable or beneficial to mount the pump on the chassis, or how exactly that might be done. What's more, because Poppitz fails to disclose an engine, let alone an engine mounted to the chassis, the reference cannot be said to teach this structural limitation. While it is true that a pump requires some kind of engine to power it, Poppitz does not supply the teaching of how the pump would be powered or mounted with an engine on a chassis.

Since the specific structural limitations found in claim 1 are not disclosed by the art, the art does not meet the requirement of teaching or suggesting all of the claim limitations and the claim is allowable.

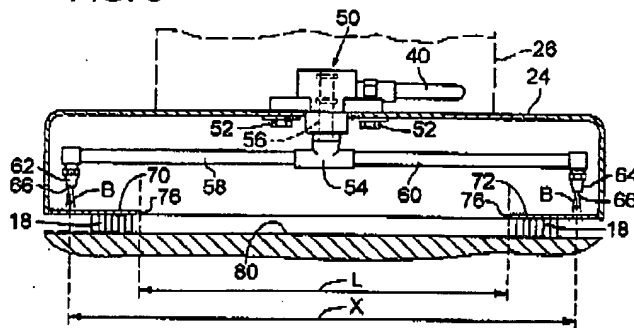
#### b. Independent Claim 9

As with claim 1, independent claim 9 also requires a high pressure pump and an engine mounted to the chassis, and is therefore distinguishable from and patentable over Poppitz for the same reasons noted above. But claim 9 calls out diffuser plate means for interrupting the rotary spray pattern in at least part of the 360° spray pattern. The Examiner argues that Poppitz does describe diffuser plates, but as detailed below, Applicant disagrees with the Examiner's position and believes it is based on an erroneous reading of the Poppitz disclosure.

Applicant's claimed diffuser plates are described first. Fig. 3 from the subject application is reproduced on the following page.

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FIG. 3



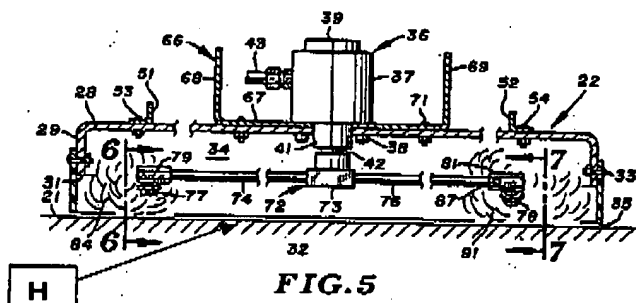
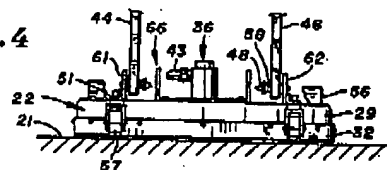
Briefly described, a rotary valve 50 is mounted to the chassis and the wands 58 and 60 rotate as the rotary valve rotates. Nozzles 62 and 64 are mounted to the wands and direct a spray of water toward the underlying surface 80 in a rotary

pattern. Diffuser plates 70 and 72 are mounted to the chassis between the nozzles and the surface such that the diffuser plates occlude a portion of the spray pattern of water as it is sprayed out of the nozzles.

The diffuser plates of the present invention are detailed in Figs. 2 and 3 (structures 70 and 72) and are described in detail in the specification at pages 8 through 12. In a nutshell, as the wands and nozzles rotate the nozzles pass over the diffuser plates for a portion of the rotational path, and accordingly, the diffuser plates interrupt or occlude at least a portion of the spray path. Stated another way, the diffuser plates block the spray from the nozzles from impinging directly on the underlying surface. As a result of the diffuser plates, the otherwise circular spray pattern of water sprayed onto the surface is truncated where the water sprayed from the nozzles hits the diffuser plates rather than the surface (see, e.g., Fig. 4 and the accompanying description). The purpose for this structure is described in the specification (see, e.g., page 10, last paragraph), and in brief, protects the underlying surface from damage.

Poppitz does not describe diffuser plates. As illustrated in Figs. 4 and 5, reproduced on the following page, Poppitz includes an annular flexible and fluid impervious skirt 32 fastened to the bottom portion of the side wall 29 with fasteners 33. The skirt 32 has a bottom end 35, which is located relatively closely to the surface 21 so that the skirt "confines high pressure cleaning fluid to the immediate surface to be cleaned." (Column 2, lines 63 – 64.)

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**FIG. 4****FIG. 5**

The Examiner argues that "the bottom ends 35 of Poppitz reads on applicant's claim for a pair of diffuser plates mounted to the chassis between the nozzles and the surfaces such that the diffuser plates occlude at least a portion of the path." However, Poppitz's skirt, including the

bottom ends 35 of the skirt, depend vertically downward from the side wall 29. The skirt does not include any horizontal sections such as would be necessary to interrupt the rotary spray pattern. (The Examiner may be construing the broken horizontal line shown in Fig. 5 (labeled "H" for illustration in the drawing above) as comprising a horizontal structure such as Applicant's diffuser plates. This would be a misreading of the drawing: the horizontal line "H" is the bottom end 35 of the skirt at the rear of the device in the drawing. The line is broken because it is obscured in Fig. 5 by the cloud 84 and 91 of cleaning fluid shown in the drawing.) Poppitz in fact teaches that the nozzles 77 and 78 should direct fluid directly onto the surface (see, e.g., column 4, lines 17 – 20: "Jet 83 deflects directly off surface 21..."). As such, Poppitz teaches away from use of the claimed diffuser plate means, which are required to interrupt the spray path.

Claim 9's diffuser plate means must function to interrupt the rotary spray pattern in at least part of its 360° rotation. Poppitz's skirt 32 is not structurally equivalent to the claimed diffuser plate means, and does not provide the same function. Specifically, the skirt 32 does not interrupt the spray pattern at all as required by claim 9. Nor is it intended to: its function is to confine the fluid to the area under the device. The function of the claimed diffuser plate means is markedly different: to interrupt the spray pattern. As detailed in the specification, by interrupting the spray pattern in a portion of the path, the high pressure spray of fluid does not impinge directly on the surface that is being cleaned (in those

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portions of the path that are interrupted), thereby eliminating damage to the surface.

For these reasons, independent claim 9 is allowable over Poppitz.

c. Dependent Claims 4, 11, 12, 13

Claim 4 depends from claim 1 and is directed to the diffuser plates described in the specification. The claim requires that the plates are mounted to the chassis between the nozzles and the surface so that the plates occlude at least a portion of the path. As detailed at length in the specification, as the wands and nozzles of the present invention rotate, the nozzles pass over the diffuser plates through a portion of the rotational path, and accordingly, where the nozzles pass over the diffuser plates, the diffuser plates occlude the spray path. As a result of the diffuser plates, the otherwise circular spray pattern of water sprayed onto the surface is truncated where the water sprayed from the nozzles hits the diffuser plates rather than the surface. (See e.g., Fig. 4 on the following page.)

Poppitz's skirt 32 does not in any sense of the word "occlude" any portion of the spray path—indeed, in Poppitz the fluid sprayed from the nozzles 77 and 78 travels unimpeded and directly to the underlying surface 21. The Merriam-Webster Online Dictionary defines "occlude" as "to close up or block off". This is consistent with the specification, where the diffuser plates are described as occluding a portion of the spray path (see, e.g., specification at page 8), and preventing fluid from the nozzles from directly impinging on the surface (see, e.g., specification at page 10 and Fig. 3).

Claim 11 depends from claim 9 and specifies that the diffuser plate means of claim 9 further comprises a pair of plates mounted to the chassis in a position such that the plates lie between the nozzles and the surface. Poppitz does not describe or suggest diffuser plates, let alone a pair of such plates mounted to the chassis in a position such that the plates lie between the nozzles and the surface. As noted above, Poppitz's skirt does not interfere at all with the fluid



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flowing from the nozzles 77 and 78, at least until the fluid rebounds off surface 21.

Claim 12 specifies that each diffuser plate interrupts the rotary spray pattern through an arc of at least about 45°. Poppitz could not possible teach or suggest this limitation.

Finally, claim 13 adds limitations directed to movement of the chassis

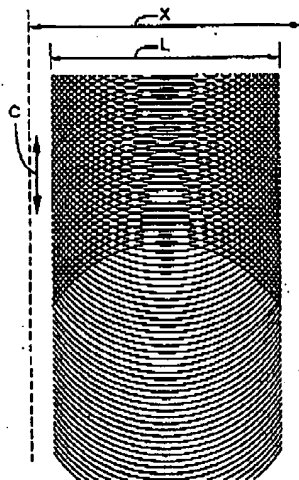


FIG. 4

along a linear path wherein each diffuser plate interrupts the rotary spray pattern at opposite lateral sides of the rotary spray pattern. This feature is described in the specification at, for example, pages 9 through 10, and is illustrated best with Fig. 4, which is reproduced on the left. From Fig. 4 it may be seen that the spray pattern has been truncated on opposite sides of the rotary path (i.e., the difference between dimensions X and L—the truncation caused by the diffuser plates. No matter how Poppitz's chassis is moved, it would be impossible to create such a truncated spray pattern. The Examiner's

rejection of claim 14 is inapposite.

## II. There is No Motivation to Combine the References

In this case the Examiner relies on a reference that fails to teach all limitations of the claims (i.e., a high pressure pump mounted to the chassis, and an engine mounted to the chassis). There is nothing in these references that provides any motivation that would lead one skilled in the art to which the invention pertains to make the claimed structure. There must be something in the cited references that suggests the desirability of the claimed invention; the suggestion cannot be derived from the specification of the application.

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Although Poppitz teaches a surface cleaning apparatus including a wheeled chassis, there is no suggestion in that reference that the invention defined in the independent claims would be desirable.

III. There is No Reasonable Expectation of Success

There can be no reasonable expectation that the invention defined in independent claims 1 and 9 would be successful based on the Poppitz reference. As noted above, Poppitz does not disclose or suggest the structures set forth in claims 1 and 9, and does not have any structure that provides the same function as the diffuser plate means in claim 9. As such, there are claim limitations that are missing, and on this basis there can be no expectation of success.

Appellant submits that for the reasons discussed above, the criteria set forth above for establishing a *prima facie* case of obviousness under 35 USC § 103 have not been met with respect to the independent claims and, therefore, the rejection of claims 1 and 9, and the claims depending therefrom should be reversed.

C. Summary

In view of the foregoing, appellant respectfully requests reversal of all of the rejections.

Respectfully submitted,



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**8. Claims Appendix**

1. Apparatus for cleaning a surface, comprising:
  - a wheeled chassis;
  - an engine and a high pressure pump mounted to the chassis, the pump having an inlet and a high pressure outlet;
  - a rotary valve mounted to the chassis and fluidly connected to the high pressure outlet and having at least two wands connected to the rotary valve so that rotation of the valve causes the wands to rotate; and
  - a nozzle mounted to each wand and oriented so that high pressure water is sprayed from the nozzles toward the surface.
2. Apparatus according to claim 1 wherein the rotary valve is capable of causing the nozzles to rotate in a circular pattern so that high pressure water is sprayed from the nozzles in a path.
3. Apparatus according to claim 2 wherein the path is circular.
4. Apparatus according to claim 3 including a pair of diffuser plates mounted to the chassis between the nozzles and the surface such that the diffuser plates occlude at least a portion of the path.
5. Apparatus according to claim 1 including a first valve between the high pressure outlet and the rotary valve, said first valve movable from a neutral position in which water flowing therethrough is returned to the high pressure pump, and a second position in which water flowing therethrough is directed to the rotary valve.

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6. Apparatus according to claim 5 including a second valve fluidly connected to the first valve and a high pressure outlet.
7. Apparatus according to claim 6 wherein when the first valve is in the second position and the second valve is in a second position, water is directed through the high pressure outlet of the second valve.
8. Apparatus according to claim 5 including a pressure regulating valve between the high pressure outlet and the first valve.
9. High pressure washing apparatus, comprising:
  - a wheeled chassis;
  - an engine and a high pressure pump mounted to the chassis, the pump having an inlet and a high pressure outlet;
  - a rotary valve mounted to the chassis and fluidly connected to the high pressure outlet;
  - high pressure water distribution means connected to the rotary valve for directing water sprayed from a pair of nozzles in a 360° rotary spray pattern toward a surface; and
  - diffuser plate means for interrupting the rotary spray pattern in at least part of the 360° rotary spray pattern.
10. The high pressure washing apparatus according to claim 9 wherein the high pressure water distribution means further comprises a pair of opposed wands and a nozzle connected to each of the wands.

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11. The high pressure washing apparatus according to claim 9 wherein the diffuser plate means comprises a pair of diffuser plates mounted to the chassis in a position such that the plates lie between the nozzles and the surface.
12. The high pressure washing apparatus according to claim 11 in which each diffuser plate interrupts the rotary spray pattern through an arc of at least about 45°.
13. The high pressure washing apparatus according to claim 12 in which the chassis is configured for movement along a linear path and wherein each diffuser plate interrupts the rotary spray pattern at opposite lateral sides of the rotary spray pattern.
14. The high pressure washing apparatus according to claim 9 including valve means for selectively directing high pressure water to the high pressure distribution means or to the pump.
15. The high pressure washing apparatus according to claim 14 including high pressure regulating means for adjusting the pressure of water in the high pressure water distribution means.
16. A method of washing a surface, comprising the steps of:
  - a) mounting to a wheeled chassis an engine, a pump having a low pressure inlet and a high pressure outlet, and a pair of rotating wands having nozzles mounted in spaced apart positions thereon; and
  - b) supplying water to the low pressure inlet, pressurizing the water and causing high pressure water to spray from the nozzles in a 360° spray path toward the surface.

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17. The method according to claim 16 including the step of blocking at least a portion of the 360° spray path so that high pressure water is blocked from directly hitting the surface in the blocked portion.
18. The method according to claim 16 including blocking at least a portion of the 360° path at opposed sides of the path.
19. The method according to claim 18 including blocking the path through an arc of at least about 45° on opposite sides of the path.
20. The method according to claim 19 including blocking the path through an arc of between about 60° and 75° on opposite sides of the path.

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**9. Evidence Appendix**

None

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**10. Related Proceedings Index**

None